



# PUBLIC NOTICE

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DA 98-141  
January 27, 1998

## AUCTION OF LOCAL MULTIPOINT DISTRIBUTION SERVICE (LMDS) LICENSES

### Status of Applications to Participate in Auction *Multiple Increment Bidding Added to Auction System*

#### Report No. AUC-17-E (Auction No. 17)

The Federal Communications Commission (FCC) has received 210 FCC Form 175 applications to participate in an auction scheduled to begin on Wednesday, February 18, 1998, for 986 LMDS licenses. The applications have been reviewed for completeness and compliance with the Commission's rules, and have been classified into the following categories:

ACCEPTED FOR FILING.....	149 Applications
INCOMPLETE.....	51 Applications
REJECTED.....	10 Applications

**Accepted:** Applications classified as accepted for filing are listed alphabetically in Attachment A. **These applicants will become qualified bidders upon receipt of the required upfront payment by 6:00 p.m. ET on Monday, February 2, 1998, as discussed below.** With respect to their applications, applicants need take no further action except as may be necessary to keep their applications up-to-date. *See* 47 C.F.R. §§ 1.65 and 1.2106. Applicants are also advised that Attachment A includes FCC account numbers which are automatically created by the FCC software system for each applicant. FCC account numbers are applicable for bidding only.

**Incomplete:** Applications classified as incomplete are listed alphabetically in Attachment B. **These applicants will become qualified bidders only if they: (1) resubmit their applications by 5:30 p.m. ET on Tuesday, February 3, 1998, to correct the minor deficiencies indicated, and (2) make the required upfront payments by Monday, February 2, 1998, as discussed below.** They must also keep their applications up-to-date as required. *See* 47 C.F.R. §§ 1.65 and

1.2106. Applicants are also advised that Attachment B includes FCC account numbers which are automatically created by the FCC software system for each applicant. FCC account numbers are applicable for bidding only.

**Rejected:** Late-filed applications and manual applications not timely filed with the Commission in Gettysburg, Pennsylvania are rejected without the opportunity to resubmit.

**Waiver Requests:** Some applications included waiver requests (either in the waiver data field or in exhibits), some of which may affect the applicant's qualifications to hold LMDS licenses in particular markets. In the Attachments, applications denoted with an asterisk (\*) have pending waiver request(s). In no event does acceptance of these applications indicate that the waiver requests have been granted. Final resolution of these requests will be released separately, and may affect an applicant's qualifications to hold a license or particular licenses.

**Confidentiality Requests:** The requests for confidentiality filed by applicants in this auction will not be granted. These requests seek confidential treatment of gross revenues data and other information which is required by the Commission's rules. We will issue letters specifically addressing the requests. Applicants will be required to make this information publicly available if they wish to become qualified bidders.

## **RESUBMISSION FILING DEADLINE**

Corrected FCC Form 175 applications must be filed no later than **5:30 p.m. ET on Tuesday, February 3, 1998**. This will be the only opportunity to cure FCC Form 175 defects; late resubmissions will not be accepted.

Applicants who filed their FCC Form 175 applications electronically must resubmit their corrected applications electronically. Applicants who filed their FCC Form 175 applications manually may resubmit their corrected applications either manually or electronically, but must resubmit electronically if they wish to bid electronically.

**Manual Resubmission:** Manual resubmissions, whether mailed, hand-delivered or sent by private courier, must be delivered to:

Attn: FCC Form 175 Processing, Auction No. 17  
Federal Communications Commission  
Auctions & Industry Analysis Division  
1270 Fairfield Road  
Gettysburg, Pennsylvania 17325-7245

**NOTE: Manual resubmissions delivered to unauthorized locations or received after the deadline will not be considered properly filed, and will be returned without consideration.**

Manual resubmissions must consist of a new FCC Form 175, complete in all respects including exhibits, correcting the identified deficiencies and signed with an original signature. *See* 47 C.F.R. § 1.2105(b)(3). In addition, corrected applications consisting of more than five pages must include either three microfiche copies of the complete application or a 3.5-inch diskette containing ASCII text (.TXT) files of all exhibit documentation attached to the FCC Form 175.

**Electronic Resubmission of Manual Applications:** Manual filers may resubmit their corrected FCC Form 175 applications electronically, either to correct deficiencies or in order to become eligible to bid electronically. In either case, however, manual filers must first obtain log-in codes that will let them access and amend their applications on-line. To do so, either the certifying official or one of the authorized representatives (as shown on the FCC Form 175) must appear in person during normal business hours at the FCC Auction Headquarters, 2 Massachusetts Avenue, N.E., Washington, D.C., with two forms of identification, one of which must include a photograph.

## **UPFRONT PAYMENT DEADLINE**

Upfront payments and accompanying FCC Remittance Advice (FCC Form 159) for this auction are due at Mellon Bank, Pittsburgh, Pennsylvania, **by 6:00 P.M. ET on Monday, February 2, 1998. Payments must be made by wire transfer and applicants must use their Taxpayer Identification Number (TIN).** No other payment method is acceptable for this auction. See the Public Notice announcing the LMDS auction, DA 97-2081, released on September 25, 1997 for detailed remittance and upfront payment instructions. Applicants are reminded to use their TIN and not FCC Account numbers on the FCC Remittance Advice (FCC Form 159).

**Applicants who have filed applications classified by this Public Notice as incomplete must submit timely upfront payments in order for the Commission to review their resubmitted applications.** If such an application remains incomplete following its resubmission, it will be dismissed; the upfront payment will be refunded automatically if the applicant has provided its Taxpayer Identification Number (TIN) and wire transfer instructions.

## **OTHER IMPORTANT INFORMATION**

**Qualified Bidders:** A final public notice listing all applicants qualified to bid in the auction will be released after upfront payments have been received, resubmitted FCC Form 175 applications have been processed and reviewed, and payments and applications have been correlated. The final public notice will also include instructions on how to monitor the auction on-line and access the bid tracking tool software.

**Reserve Price or Minimum Opening Bid:** In an order released on January 14, 1998, the Wireless Telecommunications Bureau established minimum opening bid requirements for the

LMDS auction. *See* Auction of Local Multipoint Distribution Service (LMDS), Minimum Opening Bids or Reserve Prices, *Order* (rel. January 14, 1998).

**Anti-Collusion Rule:** As of the Tuesday, January 20, 1998, FCC Form 175 filing deadline, applicants are generally prohibited from communicating with other applicants for licenses in the same markets regarding bids, bidding strategies or settlements. The only exception is where applicants entered into a bidding agreement before the Tuesday, January 20, 1998, FCC Form 175 deadline and disclosed the existence of the agreement on their application. Both applicants to the agreement must disclose this information in order for the agreement to be valid and to permit communication during the auction. More particularly, the Commission's anti-collusion rule provides that, applicants may not cooperate, collaborate, discuss or disclose the substance of their bids or bidding strategies with other bidders *until after the high bidder makes the required down payment*. 47 C.F.R. § 1.2105(c)(1)(emphasis added). In addition, applicants are reminded that they are subject to the antitrust laws, which are designed to prevent anti-competitive behavior in the marketplace. Winning bidders will be required to disclose in their long-form applications the specific terms, conditions and parties involved in all bidding consortia, joint ventures, partnerships, and other arrangements entered into relating to the competitive bidding process. Bidders found to have violated the anti-collusion rule may be subject to sanctions. *See* 47 C.F.R. §§ 1.2105(c), 1.2107(d), and 1.209(d).

**Ex Parte Rule:** Applicants should also be aware that the Commission has generally exempted auction proceedings from the strict requirements of the *ex parte* rule (47 C.F.R. § 1.1208). *See* "Commission Announces that Mutually Exclusive 'Short-Form' Applications (Form 175) to Participate in Competitive Bidding Process ('Auctions') Are Treated as Exempt for Ex Parte Purposes," *Public Notice*, 9 FCC Rcd 6760 (1994).

**Mock Auction:** Likewise, all applicants found to be qualified bidders are eligible to participate in a mock electronic auction on February 13, 1998. When software for the mock auction is posted for downloading, its availability will be announced by public notice available on-line.

**Remote Bidding Software:** Applicants are reminded that qualified bidders who filed (or amend) their FCC Form 175 applications electronically are eligible to bid either electronically or telephonically, whereas manual filers may bid only by telephone. To order the remote bidding software, applicants should complete the software order form attached to this public notice as Attachment D. As discussed more fully below, applicants ordering a Windows 95 version of the software must clearly indicate that information on the software order form in Attachment D. To ensure timely delivery of remote bidding software before the auction begins, the Commission must receive software orders by 5:30 p.m. ET on Monday, February 2, 1998.

**Windows 95 Compatibility:** The FCC now officially supports Windows 95 for the Remote Bidding System. As discussed above, applicants ordering a Windows 95 version of the software must clearly indicate that information on the software order form in Attachment D. A list of hardware and software requirements for operating the FCC Remote Bidding System can be found in Attachment E. Please be advised that the FCC Remote Bidding System has not been tested in a Macintosh, OS/2, or Windows NT environment. Therefore, the FCC will not support operating

systems other than Microsoft Windows 3.1, Windows for Workgroups 3.11, or Windows 95. This includes any other emulated Windows environment.

**Bid Submission Advisory:** Once the auction commences, applicants are reminded to be careful to verify their bids prior to submission to avoid mistakes. Normally, a bidder that withdraws a high bid during the course of an auction is subject to a withdrawal payment. *See* 47 C.F.R. § 1.2104(g)(1). Bidders therefore should pay close attention to their bids and utilize all available safeguards to ensure that bids are not submitted in error. Once a bid is submitted, bidders are fully responsible for the consequences of any errors they make, unless relief is granted.

**Long-Form Applications:** Applicants should be aware that at the long-form application stage, they will be subject to the more extensive reporting requirements contained in the newly adopted Part 1 ownership disclosure rule. *See* 47 C.F.R. § 1.2112; Amendment of Part 1 of the Commission's Rules -- Competitive Bidding Procedures, WT Docket No. 97-82, Allocation of Spectrum Below 5 GHz Transferred from Federal Government Use 4660-4685 MHz, ET Docket No. 94-32, *Third Report and Order and Second Further Notice of Proposed Rule Making*, FCC 97-413 (rel. Dec. 31, 1997).

## **MULTIPLE INCREMENT BIDDING**

The FCC has enhanced the bid entry screen of the Automated Auction System software for the LMDS auction to allow bidders to place multiple increment bids. In the recently completed 800 MHz SMR auction, the Commission introduced click box bidding whereby bidders were limited to increasing high bids by only a single bid increment. The revised system allows bidders to increase high bids by up to nine bid increments.

To place a bid on a license, the bidder must simply enter a number between **1** and **9** in the bid increment multiplier (Bid Mult) field. This value will determine the amount of the bid (Amount Bid) by multiplying the bid increment multiplier by the bid increment and adding the result to the high bid amount according to the following formula:

**Amount Bid = High Bid + (Bid Mult \* Bid Increment).**

Thus, bidders may place a bid that exceeds the standing high bid by between one and nine times the bid increment. For example, to bid the minimum acceptable bid, which is generally equal to one bid increment, a bidder will enter "1" in the bid increment multiplier column and press submit.

For any license on which the FCC is designated as the high bidder (*i.e.*, a license that has not yet received a bid in the auction or where the high bid was withdrawn and a new bid has not yet been placed), bidders will be limited to bidding only the minimum acceptable bid. In both of these cases no increment exists for the licenses, and bidders should enter 1 in the Bid Mult field. Note that any number between **1** and **9** entered in the multiplier column will result in a bid value at the minimum acceptable bid amount.

Bidders should note that this enhancement does not change any round result reports or affect any software screens other than the bid module. The import function will be modified to allow multiple increment bids to be imported into the software. The procedures for multiple increment bidding will be included in the software manual mailed out as part of the qualified bidder registration package, and the multiple increment function will be part of the mock auction software. See Attachment F which depicts a sample bidding screen allowing multiple increment bids.

For additional information, please contact: Matthew Moses or Mark Bollinger (regarding filing status) or Brett Tarnutzer (regarding multiple increment bidding), Auctions & Industry Analysis Division, Wireless Telecommunications Bureau, at (202) 418-0660.

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